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Anand Naga Babu

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT
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EXAMINER

MOORE, IAN N

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/773,194	Applicant(s) BABU ET AL.	
	Examiner Ian N. Moore	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-34 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-10 and 12-34 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 07 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because there is a lack of descriptive legends for **FIG. 8** [37 CFR 1.83, CFR 1.84 [5(e)], MPEP § 608.02(e)]. It is suggested to label entire FIG. 8 as “sample location XML document”.

Specification

2. The abstract of the disclosure is objected to because it contains the phrase, “**invention**” in lines 6,7,9,14,16,17,18,19,20, which can be implied. Applicant is reminded of the proper language and format for an abstract of the disclosure. Correction is required. See MPEP § 608.01(b).

It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. **Claims 1, 12, 24 and 34** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1,13 and 25 of copending Application No. 09/733,193 (Babu'193) in view of Shah (US 5,758,313).

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1,12,24 and 34 of the instant application merely broadens the scope of the claims 1,13, and 25 of the application by eliminating the elements and their functions of the claims (i.e. updating said location data continuously), and rewording the same limitation from "raking items in said collection according to expected utility" to "calculating a location of said user from the collection of said location data". It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art. Moreover, claim 1,12,24 and 34 of the instant application is the same scope of the claims 1,13,25 of the co-pending application by adding well known elements and functions. In particular, Shah discloses each location sources of the plurality of location sources corresponds to a different mobile device of a plurality of mobile device and each mobile device corresponds to a user (see FIG. 8, Mobile Data Suites (MDS) 610a-610n; see col. 9, line 35-65). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide, as taught by Shah in the system

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of Babu' 193, so that it would provide an integrated system which display the location/position of user; see col. 3, line 5-46.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5,6,10,12,16,17,21,24,28,29,33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Shah (U.S. 5,758,313).

Regarding Claims 1, 12 and 24, Shah discloses an information handling system for aggregating location information system (see FIG. 6 and 8, mobile Tracking System), said aggregating location information comprising:

means for acquiring location data (see FIG. 6, Data Acquisition (DAQ) acquires location data; see col. 5, line 40-56; or see FIG. 8, Data Acquisition 801; see col. 10, line 5-17) from a plurality of location sources (see FIG. 6 and 8, Mobile Data Suite (MDS) of mobile units 610a-610n, each with GPS sensors 611a-611n; see col. 5, lines 30-45; see col. 9, lines 50-66), wherein each location sources of the plurality of location sources of the plurality of location sources corresponds to a different mobile device of a plurality of mobile device (FIG. 6 and 8, Mobile Data Suite (MDS) of mobile units 610a-610n are different mobile units) and each mobile device of the plurality of mobile devices

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correspond to a particular user (FIG. 6 and 8, a user of Mobile unit 610; see col. 5, lines 30-45; see col. 9, lines 50-66); and

means for creating a collection of said location data regarding said user (see FIG. 6, Mobile position block 616, or see FIG. 8, a combined system of mobile information system (MIC) 802 and mobile tracking system-mobile information center link (MTS-MIC LINK) 804 collects/creates location data regarding a user of mobile unit; see col. 5, lines 43-67; see col. 10, lines 5-57); and

means for calculation a location of said user from the collection of said location data (see FIG. 6, a combined system of 626,646,644,645,630,632,638; or see FIG. 8, Mobile tracking System 806 determines/calculates the location of mobile unit user from the collected/acquires location data; see col. 5, lines 44 to col. 8, lines 24; see col. 10, line 20 to col. 12, line 46).

Regarding Claim 5, 10, 16,21, 28 and 33, Shah discloses said location data are updated continuously (see FIG. 6, Mobile position block 616; or see FIG. 8, DBFUPDATE 618 runs continually 802 to update the location of mobile unit user; see col. 5, lines 39-43; see col. 10, line 1-2, 26-30).

Regarding claim 6, 17 and 29, Shah discloses all limitation as set forth above in claims 1, 12 and 24. Shah further discloses acquiring location data regarding more than one user (see FIG. 6 and 8, acquire/obtains location data of users of Mobile Data Suite (MDS) of mobile units 610a-610n; see col. 5, line 30-56; see col. 9, lines 50-66; col. 10, line 5-17); and

creating collections of said location data regarding more than one user, organized by user (see col. 5, lines 43-67; see col. 7, line 1-7; col. 10, lines 5-57; obtain and create

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location data in accordance with user identification for more than one user of MDS 610a-610n);

calculating a location of each user of the more than one users (see col. 5, lines 44 to col. 8, lines 24; see col. 10, line 20 to col. 12, line 46; determines/calculates the location of each MDS user of more than one MDS 610a-610n users).

Regarding Claim 34, a method claim that that substantially discloses all the limitations of the respective method claim 1, and Shah further discloses evaluation of the user data (see col. 5, line 51-59; see col. 7, line 1-7; see col. 10, line 26-29; determining a vehicle/mobile unit identification). Therefore, it is subjected to the same rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 7, 13, 18, 22, 23, 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Fitch'092 (US006321092B1).

Regarding claims 2, 7, 13, 18, 22, 25 and 30, Shah discloses an information handling system for aggregating location information (see FIG. 6 and 8, mobile Tracking System), said information handling system comprising:

a communication device (see FIG. 6, Data Acquisition (DAQ), or see FIG. 8, Data Acquisition 801) communicating with a network (see FIG. 6, a network of Mobile units 610); see col. 5, line 40-56, see col. 10, line 5-17;

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a storage device (see FIG. 6, mobile position database 614, disk database 622, raster database 645, raster utility library 646, vector database 638, vector utility library 632; see col. 5, line 44 to col. 8, line 23; or FIG. 8, all memory/databases; see col. 8, line 30 to col. 12, line 46);

an output device (see FIG. 6 or 8, mobile tracking station (MTS) 626; see col. 5, lines 44 to col. 8, lines 24; see col. 10, line 20 to col. 12, line 46)

a system bus (see FIG. 6 or 8, the connection bus within the system between databases/libraries, output devices/station, servers/processors; see col. 5, lines 30 to col. 8, lines 24; see col. 10, line 5 to col. 12, line 46); and

a processor (see FIG. 6, DEFUPDATE 618, DBRQSRV 624, MID 630 and Fleet 644; or FIG. 8, all servers/processors), coupled by said system bus to said communication device, said storage device, and said output device (see FIG. 6,8, processors/servers to DAQ and memory/databases via the buses; see col. 5, lines 30 to col. 8, lines 24; see col. 10, line 5 to col. 12, line 46), said processor programmed to implement a method comprising:

acquiring location data (see FIG. 6, Data Acquisition (DAQ) acquires location data; see col. 5, line 40-56; or see FIG. 8, Data Acquisition 801; see col. 10, line 5-17) regarding a user (FIG. 6 and 8, a user of Mobile unit 610) from a plurality of location sources (see FIG. 6 and 8, Mobile Data Suite (MDS) of mobile units 610a-610n, each with GSP sensors 611a-611n; see col. 5, lines 30-45; see col. 9, lines 50-66), wherein each location sources of the plurality of location sources of the plurality of location sources corresponds to a different mobile device of a plurality of mobile device (FIG. 6 and 8, Mobile Data Suite (MDS) of mobile units 610a-610n are different mobile units)

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and each mobile device of the plurality of mobile devices correspond to said user (FIG. 6 and 8, a user of Mobile unit 610; see col. 5, lines 30-45; see col. 9, lines 50-66); and

converting said location data from said location sources (see FIG. 6 DAQ in the mobile position block 616 coverts/switches/changes location data from MDS 610 by sending towards mobile position data base 614; or FIG. 8, Messaging Interchange module 801 interchanges/converts data from mobile units; see col. 5, line 40-56; see col. 10, line 5-17);

creating a collection of said location data regarding said user (see FIG. 6, Mobile position block 616, or see FIG. 8, a combined system of mobile information system (MIC) 802 and mobile tracking system-mobile information center link (MTS-MIC LINK) 804 collects location data regarding a user of mobile unit; see col. 5, lines 43-67; see col. 10, lines 5-57); and

updating said location data continuously (see FIG. 6, Mobile position block 616; or see FIG. 8, DBFUPDATE 618 runs continually 802 to update the location of mobile unit user; see col. 5, lines 39-43; see col. 10, line 1-2, 26-30).

Shah does not explicitly disclose a single format. However, Fitch'092 teaches converting said location data to a single format (see FIG. 5, collection data from regions 502 and 503 are combined/aggregated; see col. 9, lines 55 to col. 10, lines 5; see col. 7, lines 41-44, 55-67 and col. 8, lines 7; note that aggregated/combined location data are converted into a standard/signal format). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form location data into a single format, as taught by Fitch'092 in the system of Shah, so that it would reduce

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location uncertainty by allowing multiple inputs from one or more wireless source and their corresponding LFE and aggregate the location data; see Fitch'092 col. 2, line 41.

Regarding claim 23, Shah further discloses acquiring location data regarding more than one user (see FIG. 6 and 8, acquire/obtains location data of users of Mobile Data Suite (MDS) of mobile units 610a-610n; see col. 5, line 30-56; see col. 9, lines 50-66; col. 10, line 5-17); and

creating collections of said location data regarding more than one user, organized by user (see col. 5, lines 43-67; see col. 7, line 1-7; col. 10, lines 5-57; obtain and create location data in accordance with user identification for more than one user of MDS 610a-610n);

calculating a location of each user of the more than one users (see col. 5, lines 44 to col. 8, lines 24; see col. 10, line 20 to col. 12, line 46; determines/calculates the location of each MDS user of more than one MDS 610a-610n users).

9. Claims 3, 4, 8, 9, 14, 15, 19, 20, 26, 27, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Fitch'092, as described above in claims 1, 12 and 24, in view of Wang (US 2002/0160745A1).

Regarding claims 3, 8, 14, 19, 26 and 31, the combined system of Shah and Fitch'092 discloses said location sources and said single format as described above in claim 2, 13, and 25.

Neither Shah nor Fitch'092 explicitly discloses a two-way pager and extendable markup language (XML). However, Wang discloses wherein a two-way pager (see FIG. 2, Pager 32; see page 4, paragraph 58), and a single format is one implemented in XML

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(see FIG. 14, HTTP (XML) 198 and 188 formats; see page 10, paragraph 127-131; note that WML 194 is converted into a single XML format 198). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a two-way pager and a XML format, as taught by Wang in the combined system of Shah and Fitch'092, so that it would provide network-independent location aware protocol which is useable over a large variety of location-aware networks and on a large variety of location-aware wireless mobile devices; see Wang page 1, paragraph 11-15.

Regarding claims 4, 9, 15, 20, 27 and 32, the combined system of Shah and Fitch'092 discloses said location sources and said single format as described above in claim 2, 13, and 25.

Neither Shah nor Fitch'092 explicitly discloses a wireless LAN hub and extendable markup language (XML). However, Wang discloses a wireless LAN hub (see FIG. 16, access point devices/hub 222 in Wireless LAN 220; see page 12, paragraph 145), and a single format is one implemented in XML (see FIG. 14, HTTP (XML) 198 and 188 formats; see page 10, paragraph 127-131; note that WML 194 is converted into a single XML format 198). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a wireless LAN hub/router and a XML format, as taught by Wang in the combined system of Shah and Fitch'092, so that it would provide network-independent location aware protocol which is useable over a large variety of location-aware networks and on a large variety of location-aware wireless mobile devices; see Wang page 1, paragraph 11-15.

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Response to Arguments

10. Applicant's arguments with respect to claims 1-10 and 12-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on 9:00 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

INM *JNM*

12-16-05

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